

MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: January 22, 2021

RE: State Pre-Filed Legislation Highlights Report, as of January 22, 2021

The following bills that may be of interest to the City of Galveston were filed as of January 22, 2021, for the 87th Texas Legislature.

PUBLIC SAFETY

H.B. 1087 (Gervin-Hawkins) – Civil Service Disciplinary Suspensions: would amend current law to provide that, for purposes of the original written statement regarding the suspension of a firefighter or police officer in a civil service city, or in any hearing regarding the violation of a civil service rule: (1) the police chief or fire chief, as applicable, may not complain of an act that is discovered (as opposed to occurred) earlier than the 180th day preceding the date the police chief or fire chief suspends the firefighter or police officer; and (2) the act complained of need not be related to a criminal activity.

H.B. 1119 (Lucio III) – Uninsured Vehicle Enforcement Program: would provide that: (1) the Texas Department of Public Safety (department) by rule shall, in consultation with law enforcement agencies, establish the Texas Uninsured Vehicle Enforcement Program to use automatic license plate reader (ALPR) systems to help law enforcement agencies identify uninsured motor vehicles; (2) the department may: (a) install an ALPR system on appropriate infrastructure owned by this state or a political subdivision of this state, including traffic signals, highway signs, bridges, and overpasses; and (b) use infrastructure described in (2)(a), above, as necessary to ensure that an ALPR system has access to the necessary power to operate; (3) the department and law enforcement agencies may use ALPRs to collect captured plate data so as to enforce the financial responsibility requirements under state law; (4) the captured plate data may be accessed only by law enforcement agencies and individuals authorized by the department; (5) a peace officer may: (a) verify by sworn affidavit that a photograph generated by an ALPR system identifies a particular vehicle operating on a public roadway that was uninsured at the time the vehicle was being operated; and (b) issue a citation, based on the affidavit, to a person for operating a motor vehicle without meeting the financial responsibility requirements; (6) captured plate data collected or retained under this program through the use of an ALPR system must be retained by a law enforcement agency if the data is being used as evidence of a violation of the financial responsibility requirements, and if no longer needed as evidence of a violation, must be deleted or otherwise destroyed; and (7) captured plate data collected or retained by the department or a law enforcement agency through the use of the ALPR system may not be used for a purpose other than enforcing the motor vehicle financial responsibility requirement.

H.B. 1125 (Anchia) – Disclosure of Information to Defendants: This bill known as “the Richard Miles Act” would provide that: (1) a law enforcement agency filing a case with the attorney representing the state, including the district attorney, criminal district attorney, county attorney with criminal jurisdiction, or city or municipal attorney, shall include with the case file: (a) all documents, items, and information in the possession of the agency that are required to be disclosed during discovery, and (b) a

written statement by a peace officer employed by the agency acknowledging that the documents, items, and information filed with the case constitute all of the documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case under the discovery rules; (2) if at any time after the case is filed with the attorney representing the state, the law enforcement agency discovers or acquires any additional documents, item, or information required to be disclosed, a peace officer employed by the agency shall promptly transmit the document, item, or information to the attorney representing the state; and (3) a law enforcement agency shall promptly disclose to each attorney representing the state with whom the agency files cases, the identity of each peace officer or other employee of the agency for whom a finding of misconduct has been sustained if that finding would be required to be disclosed to a defendant under the discovery rules.

H.B. 1157 (Vo) – Licensing Veterans as Peace Officers: would: (1) allow a political subdivision, including a city, to employ, as a peace officer, a legal permanent resident of the United States who is an honorably discharged veteran of the armed forces of the United States; and (2) require that the Texas Commission on Law Enforcement issue a peace officer license to a person who is a legal permanent resident of the United States if the person: (a) meets the requirements to be a peace officer; and (b) is an honorably discharged veteran of the armed forces of the United States.

S.B. 333 (Johnson) – Police Disciplinary Rules: would, among other things, amend current law to provide that:

1. in a city that has adopted civil service:

- a. the police chief may not suspend a police officer for an act that occurred earlier than the 730th day before the date the officer is suspended;
- b. the police chief, in the original written statement and charges and in any hearing conducted under the civil services rules involving a police officer:
 - i. may not complain of an act that is discovered earlier than the 360th day preceding the date the police chief suspends the police officer;
 - ii. must allege that the act complained of is related to criminal activity; and
 - iii. is not required to prove that the officer had the culpable mental state for the alleged criminal activity or committed the alleged criminal activity beyond a reasonable doubt;
- c. the police chief may not suspend a police officer that is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor if the act directly related to the felony indictment or misdemeanor complaint occurred earlier than the 730th day before the date the officer is suspended;
- d. the police chief may, within 30 days after the date of final disposition of the felony indictment or misdemeanor complaint described in (1)(c), above, bring a charge against the police officer for a violation of civil service rules, if the action directly related to the felony indictment or misdemeanor complaint against the police officer was discovered on or after the 360th day before the date of the indictment or complaint;
- e. the police chief may order an indefinite suspension of a police officer based on an act that is classified as a felony or a Class A or B misdemeanor after the 360-day period following the date of the discovery of the act by the police department if the police chief considers delay to be necessary to protect a criminal investigation of the police officer's conduct; and
- f. the police chief must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date of the discovery of the act by the police department, if the police chief intends to order an indefinite suspension as described in (1)(e), above;

2. in a city that has adopted civil service and has a population of 1.5 million or more:

- a. the police chief may not suspend a police officer for an act that is directly related to a felony indictment or misdemeanor complaint of any other crime involving moral turpitude that occurred earlier than the 730th day before the date the officer is suspended;
 - b. the police chief may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against a police officer for violation of civil service rules if the action directly related to the felony indictment or misdemeanor described in (2)(a), above, was discovered on or after the 360th day before the date of the indictment or complaint;
 - c. the police chief may order an indefinite suspension of a police officer based on act classified as a felony or any other crime involving moral turpitude after the 360-day period following the date of the discovery of the act by the department if the department considers delay to be necessary to protect a criminal investigation of the person's conduct; and
 - d. the police chief must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date of the discovery of the act by the department if the police chief intends to order an indefinite suspension of the officer after the 360-day period;
 - e. the police chief may not suspend a police officer for an act that violates a civil service rule if the act occurred earlier than 730th day before the date the officer is suspended;
 - f. the police chief may not suspend the police officer later than the 360th day after the date the department discovers or becomes aware of the civil service rule violation;
 - g. the suspension of a police officer for violation of a civil service rule is void and the officer is entitled to the officer's full pay if:
 - (i) the department fails to file the written statement during the required time;
 - (ii) the suspension is imposed later than the 730th day after the date the act for which the officer was suspended occurred; or
 - (iii) the suspension is imposed later than the 360th day after the date the department discovers or becomes aware of the violation that resulted in the suspension;
 - h. the police chief may not indefinitely suspend a police officer for an act that violates a civil service rule if the act occurred earlier than the 730th day before the date the officer is indefinitely suspended;
 - i. the police chief may not complain of an act by a police officer that violates a civil service rule in the original written statement and charges and in any hearing conducted under the civil service rules if the act was not discovered within the 360-day period preceding the date on which the police chief indefinitely suspends the police officer;
3. a meet and confer agreement between a city and a police officers association may not conflict with and does not supersede the provisions described in (1) and (2), above, if the city has adopted civil service; and
 4. a city may not adopt or implement a collective bargaining agreement affecting police officers that conflicts with the provisions described in (1) and (2), above.

S.B. 352 (Miles) – Peace Officer License Suspension: would amend current law to provide that the Texas Commission on Law Enforcement shall suspend a peace officer's license upon notification that the officer has been dishonorably discharged.

COMMUNITY AND ECONOMIC DEVELOPMENT

H.B. 1086 (Gates) – Public Facility Corporations: would repeal the law providing that a leasehold or other possessory interest in real property that is exempt to the owner of the interest encumbered by the possessory interest shall be listed in the name of the owner of the possessory interest for a leasehold or other possessory interest granted by a public facility corporation during the period the corporation owns projects on behalf of the authorizing municipality.

EMERGENCY MANAGEMENT

H.B. 311 (Vasut) – Extension of Disaster Declarations: would, among other things: (1) amend current law to provide that a state of disaster may not continue for more than 30 days unless renewed by the legislature by law; (2) provide that the governor may not declare a state of disaster based on the same or a substantially similar finding for which the state of disaster was initially declared by the governor within the preceding 12 months; (3) amend current law to provide that public health disaster may not continue for more than 30 days unless renewed by the legislature by law; (4) amend current law to provide that the commissioner of the state health services will no longer be authorized to renew, one time, a public health disaster for an additional 30 days; and (5) provide that, at any time, either the governor or the legislature by law may terminate a declaration of a public health disaster.

H.B. 1137 (Cain) – Taxes and Fees During Disaster: would provide that if a governor's executive order, proclamation, or regulation issued during a declared state of disaster restricts the operation of a business or category of business, a business whose operation is restricted by the order, proclamation, or regulation may not be assessed any tax or fee, including a licensing fee, by the state during the time the operation of the business is restricted by the order, proclamation, or regulation.

MUNICIPAL COURTS

H.B. 1106 (Dominguez) – Supplemental Court Security Fee: would: (1) provide that a person whose sentence, upon conviction of a misdemeanor or felony offense, includes the imposition of a fine shall pay a \$1 supplemental security fee as a cost of court; and (2) require the treasurer to deposit the court costs collected under (1), above, to the courthouse security fund or municipal court building security fund, as appropriate.

S.B. 353 (Miles) – Financial Responsibility: would authorize a justice or municipal court to access the financial responsibility verification program to verify financial responsibility for the purpose of court proceedings.

OPEN GOVERNMENT

H.B. 1082 (P. King) – Public Information: would: (1) with regard to information a city holds as an employer, except from the Public Information Act the home address, home telephone number, emergency contact information, social security number, and personal family information of an elected public officer, regardless of whether the elected officer complies with certain requirements to elect the information be kept confidential; (2) with regard to information contained in records maintained by the city in any capacity, except from the Public Information Act an elected public officer's home address, home telephone number, emergency contact information, date of birth, social security number, and family member information, if the elected officer elects to keep the information confidential; and (3) add elected public officers to the list of individuals who may choose to restrict public access to certain information in appraisal records.

OTHER FINANCE AND ADMINISTRATION

H.B. 1089 (Reynolds) – Governmental Liability: would, among other things: (1) provide that a city is liable for property damage, personal injury, or death proximately caused by the negligence of its employee if the employee was acting within the scope of employment and: (a) the employee is a county jailer, peace officer, public security officer, reserve law enforcement officer, telecommunicator, or school marshal; and (b) the employee would be personally liable according to Texas law; (2) increase the maximum liability for a city to \$250,000 for each person and \$500,000 for each single occurrence for bodily injury or death; (3) provide that a claimant may now be awarded exemplary damages if a

governmental unit is found liable under (1), above; (4) provide that a governmental unit is not liable when responding to an emergency situation if, among other things, the act is not negligent; (5) provide that a governmental unit is not liable for failure to provide or the method of providing police or fire protection, unless the failure to provide or method of providing protection was negligent, consciously indifferent, or occurred with reckless disregard; (6) remove governmental liability protections for claims based on an injury or death connected with any act or omission arising out of civil disobedience, riot, insurrection, or rebellion; (7) provide that the existence or amount of insurance of a governmental unit is subject to discovery; and (8) repeal the limitation for municipal liability, which includes a maximum of \$250,000 for each person and \$500,000 for each single occurrence of bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property.

H.B. 1118 (Capriglione) – Cybersecurity: would provide that: (1) a local government employee or official that uses a computer to complete at least 25 percent of the employee or official's required duties shall complete a cybersecurity training certified by the state cybersecurity coordinator and the state's cybersecurity council; (2) to apply for a federal or state grant, a local government must submit with its grant application proof of compliance with the cybersecurity training requirements; and (3) a local government that has not complied with the cybersecurity training requirements must repay the grant and will be ineligible for another grant for two years. (Companion Bill is **S.B. 345** by **Paxton**.)

S.B. 344 (Paxton) – Electronic Signatures: would: (1) include as the definition of an "electronic signature" one that employs blockchain or distributed ledger technology; (2) provide that a governmental agency of Texas must accept valid electronic signatures; and (3) provide that an electronic signature that employs blockchain or distributed ledger technology is a valid electronic signature for: (a) the issuance of an apostille by the secretary of state, if the apostille may be signed using an electronic signature; or (b) a contract entered into by a governmental agency.

TRANSPORTATION

S.B. 355 (Miles) – Signs on Public Right-of-Way: would provide that a person who places, commissions the placement of, uses, or benefits from the placement of a sign on the right-of-way of a public road that is not otherwise authorized by law may be liable for a civil penalty of \$10,000 for each violation.

UTILITIES AND ENVIRONMENT

H.B. 1130 (White) – Excavation Activities: would provide that: (1) an operator or excavator may file a civil action for damages for certain requirements relating to excavation; and (2) the prevailing party in an action in (1), above, may recover reasonable attorney's fees, court costs, and other expenses in certain circumstances.